

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KATHLEEN SYPERT, on behalf of herself and : 18 Civ. 6490 (PAE)
all others similarly situated, :
: Plaintiff, :
: : ANSWER
-v- : AND AFFIRMATIVE
CIPRIANI USA, INC., : DEFENSES
: Defendant.
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Defendant Cipriani USA, Inc. (“Defendant”), by and through its attorneys, as and for its Answer and Affirmative Defenses to the Complaint, states as follows:

INTRODUCTION

1. Denies the allegations contained in paragraph 1 of the Complaint.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.
4. Denies the allegations contained in paragraph 4 of the Complaint.
5. Denies the allegations contained in paragraph 5 of the Complaint.

JURISDICTION AND VENUE

6. Admits the allegations contained in paragraph 6 of the Complaint.
7. Admits the allegations contained in paragraph 7 of the Complaint.
8. Admits the allegations contained in paragraph 8 of the Complaint.
9. Denies the allegations contained in paragraph 9 of the Complaint.
10. Admits the allegations contained in paragraph 10 of the Complaint.

THE PARTIES

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.
12. Admits the allegations contained in paragraph 12 of the Complaint.
13. Denies the allegations contained in paragraph 13 of the Complaint.

NATURE OF ACTION

14. Admits the allegations contained in paragraph 14 of the Complaint.
15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint.
16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.
17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.
18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint.
19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint.

STATEMENT OF FACTS

20. Denies the allegations contained in paragraph 20 of the Complaint, except admits that it operates the website.
21. Denies the allegations contained in paragraph 21 of the Complaint.
22. Denies the allegations contained in paragraph 22 of the Complaint.
23. Denies the allegations contained in paragraph 23 of the Complaint.
24. Denies the allegations contained in paragraph 24 of the Complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint.
26. Denies the allegations contained in paragraph 26 of the Complaint.
27. Denies the allegations contained in paragraph 27 of the Complaint.
28. Denies the allegations contained in paragraph 28 of the Complaint.
29. Denies the allegations contained in paragraph 29 of the Complaint.
30. Denies the allegations contained in paragraph 30 of the Complaint.
31. Denies the allegations contained in paragraph 31 of the Complaint.
32. Denies the allegations contained in paragraph 32 of the Complaint.
33. Denies the allegations contained in paragraph 33 of the Complaint.
34. Denies the allegations contained in paragraph 34 of the Complaint.
35. Denies the allegations contained in paragraph 35 of the Complaint.
36. Denies the allegations contained in paragraph 36 of the Complaint.
37. Denies the allegations contained in paragraph 37 of the Complaint.
38. Denies the allegations contained in paragraph 38 of the Complaint, except admits

that it has invested substantial sums in developing and maintaining the website.

39. Denies the allegations contained in paragraph 39 of the Complaint.
40. Denies the allegations contained in paragraph 40 of the Complaint.
41. Denies the allegations contained in paragraph 41 of the Complaint.
42. Denies the allegations contained in paragraph 42 of the Complaint.
43. Denies the allegations contained in paragraph 43 of the Complaint.
44. Denies the allegations contained in paragraph 44 of the Complaint.
45. Denies the allegations contained in paragraph 45 of the Complaint.
46. Denies the allegations contained in paragraph 44 of the Complaint.

47. Denies the allegations contained in paragraph 45 of the Complaint.

FIRST CAUSE OF ACTION

48. Repeats and re-alleges his responses to the allegations in the preceding paragraphs as if fully set forth herein.

49. Defendant denies the allegations in paragraph 49 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

50. Denies the allegations contained in paragraph 50 of the Complaint.

51. Defendant denies the allegations in paragraph 51 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

52. Defendant denies the allegations in paragraph 52 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

53. Defendant denies the allegations in paragraph 53 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

54. Denies the allegations contained in paragraph 54 of the Complaint.

55. Denies the allegations contained in paragraph 55 of the Complaint.

SECOND CAUSE OF ACTION

56. Repeats and re-alleges his responses to the allegations in the preceding paragraphs as if fully set forth herein.

57. Defendant denies the allegations in paragraph 57 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

58. Denies the allegations contained in paragraph 58 of the Complaint.

59. Denies the allegations contained in paragraph 59 of the Complaint.

60. Denies the allegations contained in paragraph 60 of the Complaint.

61. Defendant denies the allegations in paragraph 61 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

62. Defendant denies the allegations in paragraph 62 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint.

64. Denies the allegations contained in paragraph 64 of the Complaint.

65. Denies the allegations contained in paragraph 65 of the Complaint.

66. Denies the allegations contained in paragraph 66 of the Complaint.

67. Denies the allegations contained in paragraph 67 of the Complaint.

68. Denies the allegations contained in paragraph 68 of the Complaint.

69. Denies the allegations contained in paragraph 69 of the Complaint.

70. Denies the allegations contained in paragraph 70 of the Complaint.

THIRD CAUSE OF ACTION

71. Repeats and re-alleges his responses to the allegations in the preceding paragraphs as if fully set forth herein.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint.

73. Defendant denies the allegations in paragraph 73 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

74. Defendant denies the allegations in paragraph 74 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

75. Denies the allegations contained in paragraph 75 of the Complaint.

76. Denies the allegations contained in paragraph 76 of the Complaint.

77. Denies the allegations contained in paragraph 77 of the Complaint.

78. Defendant denies the allegations in paragraph 78 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

79. Defendant denies the allegations in paragraph 79 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

80. Denies the allegations contained in paragraph 80 of the Complaint.

81. Denies the allegations contained in paragraph 81 of the Complaint.

82. Denies the allegations contained in paragraph 82 of the Complaint.

FOURTH CAUSE OF ACTION

83. Repeats and re-alleges his responses to the allegations in the preceding paragraphs as if fully set forth herein.

84. Defendant denies the allegations in paragraph 84 and respectfully refers the Court to the statute referenced therein, which speaks for itself, for a true and accurate recitation of its contents.

85. Denies the allegations contained in paragraph 85 of the Complaint.
86. Denies the allegations contained in paragraph 86 of the Complaint.
87. Denies the allegations contained in paragraph 87 of the Complaint.
88. Denies the allegations contained in paragraph 88 of the Complaint.
89. Denies the allegations contained in paragraph 89 of the Complaint.
90. Denies the allegations contained in paragraph 90 of the Complaint.
91. Denies the allegations contained in paragraph 91 of the Complaint.
92. Denies the allegations contained in paragraph 92 of the Complaint.
93. Denies the allegations contained in paragraph 93 of the Complaint.
94. Denies the allegations contained in paragraph 94 of the Complaint.
95. Denies the allegations contained in paragraph 95 of the Complaint.

FIFTH CAUSE OF ACTION

96. Repeats and re-alleges his responses to the allegations in the preceding paragraphs as if fully set forth herein.

97. Denies the allegations contained in paragraph 97 of the Complaint.
98. Denies the allegations contained in paragraph 98 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The website at issue is not a “public accommodation” within the meaning of the ADA.

THIRD AFFIRMATIVE DEFENSE

Plaintiff’s claims are moot, and thus the Court lacks subject matter jurisdiction, because of modifications that were made, or will shortly be made, to the website.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has not been damaged by, or suffered any injuries as a result of, the conduct alleged in the Complaint, and/or she otherwise lacks standing to sue, and never intended to access or use the purported goods or services allegedly offered by Defendant’s website, and has only commenced this action because she is a serial ADA litigant, as evidenced by the more than forty actions she has filed in the last four months.

WHEREFORE, Defendant respectfully requests judgment as follows:

- (a) dismissing the Complaint with prejudice;
- (b) awarding Defendant its costs and expenses incurred in defending this action, including attorneys' fees; and
- (c) granting Defendant such other and further relief as the Court deems just and proper.

Dated: New York, NY
September 20, 2018

MEISTER SEELIG & FEIN LLP

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